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Attorneys for Plaintiff Birks & Mayors Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

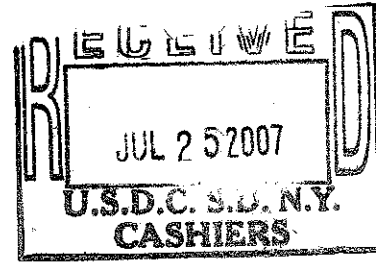
----- X
BIRKS & MAYORS INC.,

Plaintiff,

-against-

L.J. WEST DIAMONDS, INC.,

Defendant.
----- X



JUDGE KARAS

07 CIV 6688

No.
ECF Case

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Birks & Mayors Inc. ("B&M"), by its attorneys O'Hare Parnagian LLP,
as and for its complaint alleges as follows:

PARTIES

1. B&M is a corporation constituted under the laws of Canada having its principal place of business in Montreal, Quebec, Canada.
2. B&M is a merchant buyer and seller of fine jewelry.
3. L.J. West Diamonds, Inc. ("LJ West") is a New York corporation having a principal place of business in New York, New York.
4. LJ West is a merchant seller of colored diamonds.

JURISDICTION AND VENUE

5. Jurisdiction is based on 28 U.S.C. 1332(a) in that the parties are of diverse citizenship and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

6. Venue is proper in this judicial district, pursuant to 28 U.S.C. § 1391, because LJ West resides in this judicial district and a substantial part of the events or omissions giving rise to the claims occurred in this judicial district.

FACTS

7. On or about January 15, 2007, LJ West consigned an 8.8 carat pink cushion shaped diamond (the "Diamond") to B&M.

8. On or about January 22, 2007, LJ West gave B&M the option or right of first refusal to purchase the Diamond for \$195,000 per carat for a total of \$1,731,600. The option or right of first refusal expired on January 25, 2007 at 5PM. The option or "right of first refusal" was in writing and signed by LJ West, the offeror, and provided: "With regard to the 8.88 we give you a right of first refusal to purchase the stone and will honor this agreement until this Thursday at 5pm EST." (See Ex. A at p. 2, E-mail from Eric Frank to Lawrence Hess dated January 22, 2007.)

9. On or about January 25, 2007, B&M learned that LJ West had received an offer to purchase the Diamond from a third-party.

10. At approximately 10:59AM on January 25, 2007, B&M advised LJ West in writing of its intent to exercise its option or right of first refusal to purchase the Diamond. (See id., E-mail from Lawrence Hess to Eric Frank dated January 25, 2007.)

11. At approximately 12:35PM on January 25, 2007, a representative of LJ

West wrote to B&M and advised that "it is with regret that I must inform you that the stone was sold." (See id. at p. 1, E-mail from Eric Frank to Lawrence Hess dated January 25, 2007.)

COUNT I
(Breach of Contract)

12. B&M repeats and realleges the preceding allegations as if set forth fully herein.

13. The option or right of first refusal to purchase the Diamond was a valid and enforceable contract between LJ West as the offeror and B&M as the offeree.

14. B&M exercised its right to purchase the Diamond at the agreed upon option price of \$195,000 per carat within the period of irrevocability.

15. LJ West breached said valid and enforceable contract by selling the Diamond to a third-party prior to the expiration of the period of irrevocability granted to B&M, and by refusing to sell the Diamond to B&M pursuant to the terms of the option or right of first refusal.

16. As a result of LJ West's breach of said contract, B&M has suffered damages in excess of \$500,000.

JURY DEMAND

B&M demands a trial by jury on all issues.

WHEREFORE, B&M demands judgment as follows:

- a) An award of compensatory damages in an amount to be determined at trial but in no event less than \$500,000, plus permissible interest;
- b) An award of the costs of this litigation, including reasonable attorneys' fees, costs, and disbursements; and

- c) A grant of such other relief as this Court may deem just and proper.

Dated: New York, New York
July 24, 2007


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EXHIBIT A

From: Eric Frank [mailto:eric@ljwestdiamonds.com]
Sent: Thursday, January 25, 2007 12:35 PM
To: Lawrence Hess [Mayors]
Cc: Paul Lombardi
Subject: RE: 8.88ct

Lawrence it is with regret that I must inform you that the stone was sold.

I did everything humanly possible to avoid this situation short of breaking the law.

On a personal level I hope that this debacle does not cause you any personal harm.

It was my honor having the opportunity to do business with you and your firm and I wish you and Paul all the best.

Best,

A handwritten signature in black ink, appearing to read "Eric Frank". The signature is stylized with a cursive script.

Eric Frank G.G.

4/24/2007

L.J. West Diamonds, Inc.

589 Fifth Ave. Suite 1102

New York, NY 10017

212-997-0940

212-302-4328 f

516-448-5534 c

eric@ljwestdiamonds.com

From: Lawrence Hess [mailto:lhess@birksandmayors.com]
Sent: Thursday, January 25, 2007 10:59 AM
To: Eric Frank
Cc: Tom Andruskevich [Montreal]; Paul Lombardi
Subject: RE: 8.88ct

Eric,

We have decided to purchase this diamond. Please forward instructions on how to proceed.

In addition, please have the stone delivered to our offices today.

Thank you,

Lawrence Hess
Birks and Mayors Inc. - NY office
36 West 44th Street
13th Floor
New York, NY 10036
Tel - 212-391-1074 x 205
Fax - 212-391-1802

From: Eric Frank [mailto:eric@ljwestdiamonds.com]
Sent: Monday, January 22, 2007 5:47 PM
To: Lawrence Hess
Subject:

Lawrence greetings,

With regard to the 8.88 we give you right of first refusal to purchase the stone and will honor this agreement until this Thursday at 5pm EST.

4/24/2007

Price as agreed \$195,000 pct.

Best,

A handwritten signature in black ink, appearing to read "Eric Frank".

Eric Frank G.G.

L.J. West Diamonds, Inc.

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